



CHAPTER II : REFFERAL & INVESTIGATION

Revised 4/30/2002

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I. Social Worker's Perspective

A. Reporting of Child Abuse, Abandonment or Neglect

There are several ways in which a child protection case may be reported or an investigation of alleged abuse and neglect of a child may be initiated. A report may be made to local law enforcement officials that a child is endangered in her or his surroundings and should be removed in order to prevent serious physical or mental injury.¹ A report of potential child abuse or neglect may be made to local law enforcement officials or to the IDHW either voluntarily or pursuant to Idaho's mandatory reporting provision.² Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker or other person who has reason to believe that a child has been abused, abandoned or neglected or who observes the child being subjected to conditions that would reasonable result in abuse, abandonment or neglect, shall report that information to the proper law enforcement agency or the department. Failure to report is a misdemeanor pursuant to Idaho Code § 16-1619. Reporting parties are immune from liability unless the report is made in bad faith or with malice. A child protection case also begins when a child is abandoned pursuant to Idaho's Safe Haven Act.³ Or, finally, a juvenile court judge may expand a case that began as a juvenile matter into a child protection case pursuant to I.J.R. 16.⁴

¹ Idaho Code § 16-1612(a).

² Idaho Code § 16-1619(a). "Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglect or who observes the child being subjected to conditions or circumstances which would reasonable result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department [Department of Health and Welfare]. The department shall be informed by law enforcement of any report made directly to it... ."

³ Idaho Code § 39-8202-8207.

⁴ I.J.R. 16 conversions are discussed separately in this Manual in Chapter III.

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Law enforcement officers often encounter children at risk during routine activities such as serving search warrants or responding to domestic violence complaints. At other times their presence is requested to accompany an IDHW worker on a referral. Police officers declare children in imminent danger and place them in shelter care and assist the IDHW worker in removing children peacefully from the home. Often they have information from criminal investigations that is valuable for child protection investigations. The caseworker, the prosecutor and the guardian *ad litem* should try to determine if any such information is available in each case.

Irrespective of how the initial report is made, the IDHW is charged by Idaho law as the official child protection agency of state government and has the duty to intervene in situations of child abuse and neglect.⁵ The division of IDHW having primary responsibility in the child protection area is Family and Children's Services (FACS).

1) Receiving/recording reports

Regulations adopted by IDHW to implement its responsibility in the area of child protection require it to maintain a regional system for receiving and responding to reports and complaints twenty four hours a day, seven days a week.⁶ These regulations also require that each IDHW region publish the phone number of Child Protective Services throughout the region and ensure the accurate recording of as many facts as possible at the time of the report.

Information to be Obtained from Caller IDHW Protocol

Referent Information

- Name, address and phone number
- What is the referent's relationship to the family?
- Does the referent plan to tell the family they called us?
- Does the referent want to be part of the system that supports the family?
- How well does the referent know the family?
- Is the referent willing to meet with FACS staff if necessary?
- What does the referent want to happen as a result of the referral?
- Does the referent stand to gain anything if the report is dispositioned as valid?
- If the referent knew of previous child abuse and neglect, why is he/she making the referral now?

Information on the family

- What is the nature of the referral (why is the family being referred)?
- How did the referent learn about issue (witnessed, child disclosed, someone told him/her)?
- Identifying information (name, birth date, social security number, school) of all persons involved in the issue.
- Specific **facts**, dates, and descriptions of the issue affecting the children.
- How long has the issue been occurring?
- Family background
- Parent's employment
- Parental use of substances
- Domestic violence
- Information regarding the alleged perpetrator
- Parent's explanation of the injury/issue (if known)
- Family's support systems
- Cultural or language differences
- Family strengths
- Names, addresses and phone numbers of other individuals who have knowledge of the family's situation.

⁵ I.C. § 56-204A, I.C. § 56-204B, I.C. § 16-1601, I.C. § 16-1623, I.C. § 16-2001.

⁶ IDAPA 16.06.01.552

2) Responding to reports

IDHW has established the following protocol for responding to reports of child abuse and neglect. Pursuant to this protocol, reports are initially categorized three ways: Those reports not within the power of FACS and where safety is not an issue, those reports not within the power of FACS but where there may be safety issues, and those within FACS mandates. The Flowchart following this section illustrates this response protocol.

(a) Information and Referral. If the initial referral is a request for information or services **not within Family and Community Service's ("FACS") mandates and no safety issues are present**, a brief information and referral service should be provided to the caller. This may include a referral to an appropriate agency or community resource. This type of referral is then closed and designated "Information and Referral" in the FOCUS Information System.

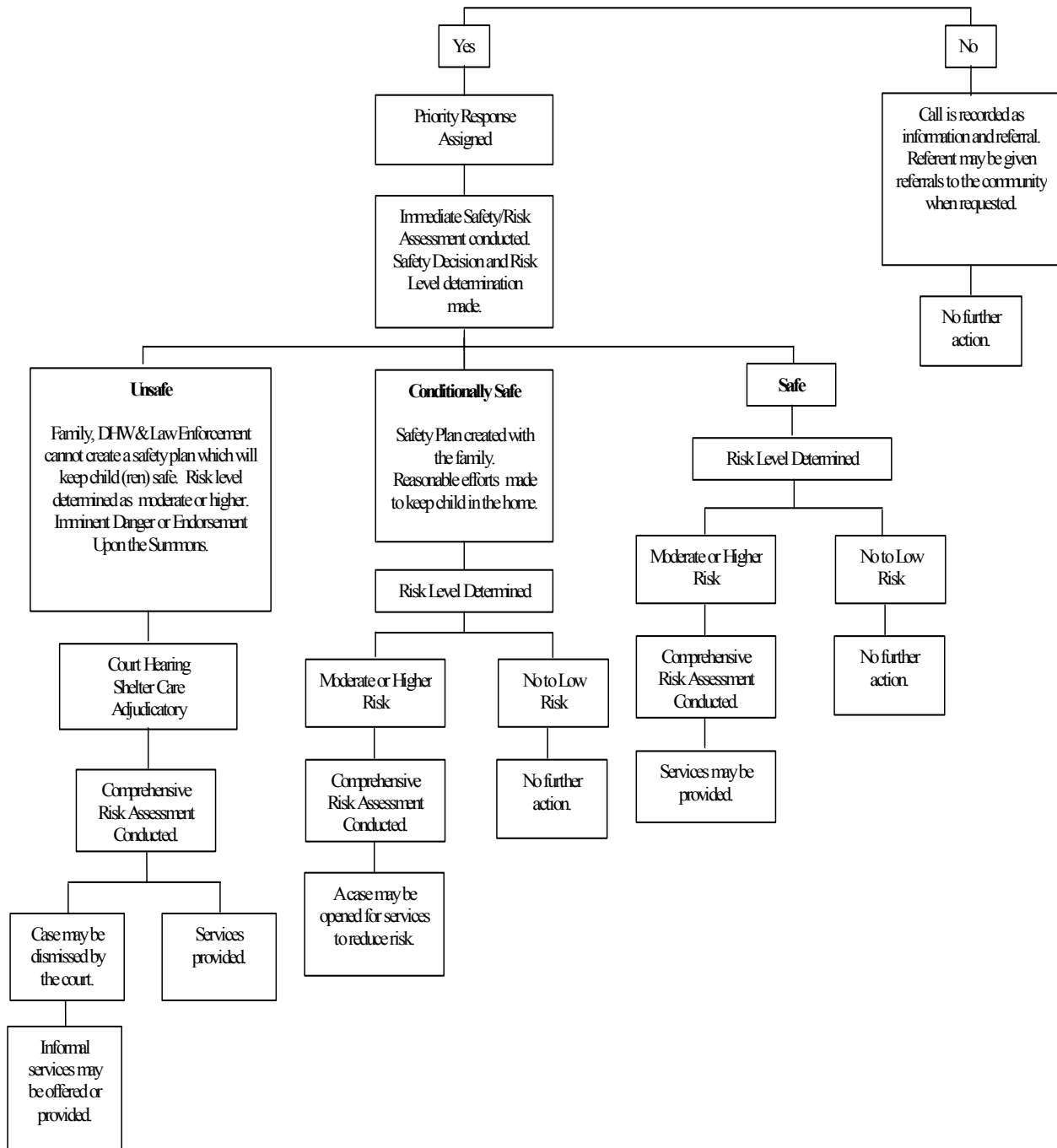
(b) Safety Issues Indicated but not within FACS mandates. For all emergency situations which appear to be of an immediate life threatening nature, the IDHW worker is to obtain crucial information and immediately notify the appropriate emergency response agency (e.g. 911, law enforcement) and the supervisor. When safety issues are present, it is the worker's responsibility to direct the caller to appropriate resources regardless of whether the issue falls within FACS mandates. The presence of safety issues may warrant that the worker personally notify the responsible agency of the referral.

(c) Safety Issues Indicated within FACS mandates. If the initial referral appears to fall **within DHW mandates and safety issues are present, the worker does the following:**

- a. Requests additional information. Information both about the referent and information on the family is elicited from the caller.
- b. Searches agency records;
- c. Refers for action according to the Priority Response Standards;
- d. Documents information in FOCUS Information System;
- e. Faxes referral information to local law enforcement.

Initial Referral Decision Process For Referrals of Child Abuse and Neglect

1. Is there a safety issue? 2. Is it within FACS mandates?



3) **Priority response standards**

When a case is within FACS powers, the agency has developed priority response standards. These standards⁷ **establish time lines** for initiating Risk Assessment/Risk Reduction for all safety issues within FACS mandates, based on the information gathered through the initial referral. The priority and scale of IDHW's response is determined by the apparent immediacy of risk of severe physical or psychological harm to the child. Based on available information and professional judgement, a referral may be considered a higher or lower priority than suggested by the standards. Reasons for making a referral a lower priority than suggested by the standards must be documented as a variance by the worker's supervisor.

The FACS worker's response must also **be consistent with the local child abuse and neglect multidisciplinary team's protocol**. This protocol established by local MDTs, will specify the role of Health and Welfare, law enforcement and the prosecuting attorney's office, as well as the procedures to be followed to assess the risks to the child and the criteria and procedures to be followed to ensure the child's safety. An example of an effective MDT protocol is included in Appendix F.

IDHW PRIORITY RESPONSE STANDARDS

IDAPA 16.06.01.554

01. Priority I. The Department shall respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement shall be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child shall be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger.

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement shall be notified within twenty-four (24) hours. The child shall be seen by the family services worker within forty-eight (48) hours of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals which involve issues of abuse or neglect.

03. Priority III. A child may be in a vulnerable situation because of service needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parents will be interviewed for substantiation of the facts, and to assure that there is no parental abuse or neglect. A family services worker shall respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral.

04. Notification to Referent. The Department of Health and Welfare, Family and Children's Services shall notify the reporting individual of the receipt of the referral within five (5) days.

⁷ IDAPA 16.06.01.554 -- Response Priorities ("The Department shall use the following statewide standards for responding to allegations of abuse, neglect or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards shall be documented in the family's case file with a description of action taken, which shall be reviewed and signed by the Child Protective Supervisor."'). See Appendix F: Information Regarding Priority Response Standards Including Examples of How Issues Are Prioritized.

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Definitions

1. FACS worker

FACS workers are direct service personnel in the regional Family and Children's Services offices including, social workers, clinicians, counselors and psychologists. FACS staff also includes individuals with whom the regional Family and Children's Services programs have contracted to provide services.

2. Response

Any earnest and persistent documented effort to place in motion actions to assess the allegations of a referral and/or protect the child in question.

3. Documented

If the Priority Standards are not followed, documentation in the case record will indicate the variance and reasons for such deviation. Supervisors will review and sign the variances.

4. Seeing the Child

Face-to-face contact with the child by the FACS worker which may or may not be in the family home. Response time for seeing the child begins when the referral is received by the Department.

5. Third Party

Refers to someone outside the parental home who is not a primary care taker or legal custodian of the child and who no longer has access to the child.

6. Variances

A child may not be seen within designated response times. The rationale behind the delay must be thoroughly documented and reviewed by the supervisor. Circumstances that might warrant a variance include:

- a. Geographical constraints
- b. Weather hazard
- c. Good Practice Decisions or Professional Judgement
- d. Law enforcement has already sheltered the child
- e. Worker safety
- f. Law Enforcement is unable to accompany a DHW worker and worker safety issues are identified in the referral
- g. Other (child has left the area, unable to locate, etc.)

7. Reasonable Efforts to Locate

Reasonable efforts to locate a family and see a child include:

- ◆ recontacting the referral source to verify the address,
- ◆ contacting the family after regular office hours through the assistance of an on-call social worker
- ◆ checking with landlords and/or neighbors, utility companies, a family's self reliance specialist, child support's parent locator service, local schools and law enforcement for a current address or any knowledge of the family's whereabouts.

Before a case is closed because a family cannot be located, the case must be reviewed by the worker's supervisor and/or team.

4) Indian Child Welfare Act considerations

The Indian Child Welfare Act, 25 U.S.C. § 1911, requires notice to the appropriate tribal authorities whenever an Indian child may be involved in a Child Protection case. In order to implement the provisions of ICWA, the IDHW has adopted IDAPA 16.06.01.556 Reports Involving Indian Children. That section provides:

Possible abuse, abandonment, or neglect of a child who is known or suspected to be Indian shall be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the Department shall perform the investigation. The Department shall also investigate incidents reported on a reservation if requested to do so by appropriate authorities

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of the tribe. A record of any response shall be maintained in the case record and written documentation shall be provided to the appropriate tribal authorities.

5) **Priority guidelines**

To implement its priority response standards, the department has developed the following guidelines:

Priority I

[Immediately notify IDHW supervisor of all Priority 1 cases.]

A Child Is In Immediate Danger involving a life-threatening and/or emergency situation; the Department shall respond immediately. Law enforcement must be notified and requested to respond or to accompany FACS worker. The child must be seen by a FACS worker immediately unless written regional protocol agreements direct otherwise. The child shall be seen by medical personnel when deemed appropriate by law enforcement and/or FACS worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. **Reasons for variances must be documented in the case record.**

Death of a Child

Minor siblings remaining in the family home, when death of a child is alleged to be due to physical abuse or neglect by the child's parents, guardian, or caretaker.

Dangerousness or Risk of Physical Harm due to Mental Illness

Referrals involving immediate life threatening danger of children to self or others due to mental illness and/or grave disability. Response should be an evaluation process that will reduce risk by assisting parents with appropriate referrals and/or assessing the child to determine eligibility for services through the Department.

Life Threatening Physical Abuse

Severely physically abused children with observable injuries or symptoms that are, or could be, life threatening. Some examples of severe injuries or situations include, but are not limited to:

- ◆ head injury with loss of consciousness or vomiting;
- ◆ unusual or severe bleeding;
- ◆ multiple injuries (battering);
- ◆ fractures in non-ambulatory child (usually an infant or toddler);
- ◆ shaken baby syndrome;
- ◆ all allegations of physical abuse of a child through age 6 should be considered under priority one unless there is reason to believe that the child is not in immediate danger.

Life Threatening Medical Neglect

Physically ill children who are medically neglected in a way that is life threatening. Includes abrupt and significant (10%) weight loss in a child under three (3) years of age.

Life Threatening Physical Neglect

Children who appear to be in immediate danger because the caretakers are physically absent and/or are unable to provide adequate care. This would include neglect of children through age 6 unless there is reason to believe that the child is not in immediate danger.

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Withholding Medically Indicated Treatment in Severely Disabled Infants with Life Threatening Conditions

For guidance on how to respond to allegations of withholding medically indicated treatment in severely disabled infants with life threatening conditions, please see the Idaho Health and Welfare Guide to Policy and Procedures for Assessment and Disposition of Medical Neglect of Handicapped Infants.

Preservation of Information/Risk of Family Leaving Area

Abuse or neglect cases in which critical information is likely to be lost if not gathered immediately, or there is a history of the family leaving the area to avoid intervention.

Sexual Abuse

Children who are in immediate danger of being sexually abused by parents, guardians, relatives, or other caretakers, or situations in which abuse occurred because of lack of protection on the part of the caretakers from the alleged abuser.

Priority II

A Child Is Not In Immediate Danger, but allegations of abuse, or serious physical or medical neglect, are clearly defined in the referral; response shall be within twenty-four (24) hours. The Child must be seen by a FACS worker within forty-eight hours of the Department's receipt of the referral unless written regional protocol agreements direct otherwise. The child shall be seen by medical personnel when deemed appropriate by law enforcement and/or FACS worker. *Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals which involve issues of abuse or neglect.* If possible, attempts should be made to coordinate the Department's assessment with law enforcement's investigation. **Reasons for variances must be documented in the case record.**

Non Life-Threatening Physical Abuse

(All allegations of physical abuse of a child through age 6 should be considered under priority one unless there is reason to believe that the child is not in immediate danger.) Physical abuse of a child over age six (6) with observable, non life-threatening injuries.

Bruises on children often occur as a result of child play. Before being assigned for risk assessment, a referral should contain reason to believe that physical abuse has occurred. Consideration should be given to the following factors.

- Age and developmental stage of the child.
- Location and size/shape of the bruise.
- Plausibility of the explanation of the bruise.
- Disclosure of the child.
- Witness.

Non Life-Threatening Physical or Medical Neglect

Physical or medical neglect that is dangerous and poses health hazards to the child, and that may result in physical injury or impairment of the bodily function. Includes growth rate below the third percentile or chronic untreated infections.

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Infants Testing Positive for Drugs at Birth

The Department will assess the risk to the infant and the family's ability to care for the needs of the infant. Response should be an evaluation process that will reduce risk by assisting parents with appropriate referrals and/or assessing the health and safety of the child.

Sexual Abuse

Children whose immediate safety needs are currently addressed, as verified, but where the children were allegedly sexually abused by parents, guardians, relatives, or other caretakers or situations in which abuse occurred because of lack of protection on the part of the caretaker(s) from the alleged abuser and the children are not in immediate danger.

Disabilities

Children who are severely disabled and/or unable to communicate are generally more vulnerable for abuse and/or neglect. When receiving a referral regarding a child with a severe disability, social workers should consult with persons knowledgeable about disability issues. They should ensure that services are in place that will minimize risk to the child and promote family preservation.

Priority III

A CHILD IS NOT IN IMMINENT DANGER, but allegations of abuse or neglect are clearly defined in the referral as a result of the parent or caregiver failing to meet the age appropriate needs of the child. The Department shall respond within three (3) calendar days. Child must be seen by the Department FACS worker within five (5) calendar days of the Department's receipt of the referral.

Reasons for variances must be documented in the case record.

Inadequate Supervision

If children are unsupervised issues to determine response are:

- Age of the Child

Is the child developmentally delayed or disabled?

How long has the child been alone?

What happens as a result?

Have prior arrangements and commitments been made for others to help in an emergency?

Are there factors which interfere with a parent's ability to supervise a child (i.e., substance abuse, mental illness, etc.)?

Has there been a pattern of lack of supervision?

If the parent/caregiver arranges for a sibling or another child to babysit, consider the babysitter's ability to provide care. Some factors to consider include:

- Age of the babysitter
- Age of the children he/she is required to watch.
- Number of children.
- Maturity of Children

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A presenting issue should be assigned for a safety/risk assessment depending on the age and developmental level of the child, how long the child has been alone, and failure of the parent/caregiver to plan for the child's care.

Home Health and Safety

A physical environment that is a health or a safety hazard which may directly affect the health of a child. If there are no health and safety factors as they relate to the children in the home, the Department will not be directly involved.

Issues to determine response are:

- Weight loss as a result of the care provider not providing food or drink to the child for prolonged periods.
- No housing or emergency shelter; Harsh weather or other conditions exist that place child in danger.
- Exposed wiring or other safety hazards.
- Evidence of human or animal waste throughout living quarters.
- Perishable food that has rotted and may cause illness.
- Serious illness or significant injury has occurred due to living conditions and these conditions still exist.

Home environments that are cluttered or do not meet community standards of cleanliness are not considered for Priority III Assignment unless health and safety factors are clearly identified in the referral. Referrals regarding head lice and lack of immunizations are not considered safety issues and will not be assigned for risk assessment.

Moderate Medical Neglect

Caregiver does not seek treatment for child's moderate medical condition(s) or does not follow prescribed treatment for such condition. It may also include a pattern of excessive medical care.

Issues to determine response are:

- Verification, by a medical personnel [sic], of the medical condition and required treatment prior to assigning the presenting issue for further assessment.

Domestic Violence

Caregiver may be a victim of family violence which affects caretaker's ability to care for and/or protect child(ren) from immediate harm.

Issues to determine response are:

- Child has been injured during an episode of domestic violence.
- Child has been used as a shield during an episode of domestic violence.
- Child's basic needs have been seriously neglected because adult victim was incapacitated by domestic violence.

Situations that may impact a child's safety include:

- Batterer has used or threatened to use a weapon during domestic violence assault.
- Batterer has continued a pattern of partner abuse after a court order/restraining order.
- Batterer has stalked partner and/or children.

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- Batterer has caused injuries serious enough to require medical attention or hospitalization.
- Frequency and/or type of violence have been escalating.

Although the DHW recognizes the emotional impact of domestic violence of children, due to capacity we can only respond to referrals of domestic violence that involve a child's safety. Referrals alleging that a child is witnessing their parent/caregiver being hurt will be referred to law enforcement for their consideration. Additionally, referents will be given referrals to community resources.

Substance Abuse

The DHW will respond only to referrals involving substance abuse where the use of drugs or alcohol seriously affects the caregiver's ability to supervise, protect, or care for their child(ren).

Issues to determine response are referrals alleging:

- Child has been exposed to parent/caregiver manufacturing drugs.
- Child's basic needs for adequate clothing, food, shelter, supervision or medical care have been neglected while caregiver may have been obtaining and/or using drugs/alcohol.
- Child has found and ingested drugs/alcohol while unsupervised.
- Parent/caregiver or alleged offender may have given drugs (not prescribed by a physician) or alcohol to infants or young children to sedate them or control their behavior.

If the referent cannot define or describe how the use of drugs or alcohol is posing a safety issue for children, the referral will be entered as information only and will not be assigned for risk assessment.

Educational Neglect

The DHW encourages school districts to work with their school resource officers and local prosecutors around issues of educational neglect. School districts are encouraged to send reports of excessive absences to the county prosecutor for further consideration.

- Home Schooling – Referents with reports involving home schooling may be referred to the regional representative of the home school association. The DHW will not monitor home schooling.

Historic Reports of Physical Abuse or Neglect:

The DHW will not respond to referrals of physical abuse or neglect where the situation has resolved or physical evidence is no longer available.

Examples may include:

- Report of bruising or marks that may have been observed in the past but are no longer present.
- A landlord reporting unsanitary conditions in his/her rental after the family has moved to another house.

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Exceptions may be made in cases of infants or small children. For example, a referral would be assigned with a report of a caregiver shaking or hitting an infant, even though no medical or physical evidence has initially been established.

History of Referrals

Issues to consider in determining a response:

- What is the frequency of referrals? How much time has passed with the family having no referrals?
- What is the disposition of past referrals?
- Who is making the referrals?
- Is it the same referent with issues that have been explored but not validated?

Multiple Reports Involving Issues of Child Custody

Issues to consider in determining a response:

- Have the issues been explored in a previous risk assessment containing the same or similar referral reasons?
- Has the parent filed a protection order on behalf of the child?
- Has the case been staffed with the multidisciplinary team? What is the direction of law enforcement and the prosecutor?

If a safety/risk assessment has been conducted, prior to assigning subsequent referrals containing the same referral reasons, it is recommended to staff the case with law enforcement and/or the prosecutor to avoid duplicating or contaminating the interview process. Subsequent referrals containing the same issue may be assigned only upon supervisory and/or regional management approval.

Third Party Sexual/Physical Abuse (Not included as Priority III)

The definition of third party referrals indicates that the parent/caregiver is protective and the alleged offender no longer has access to the child. These referrals will be directed to law enforcement for investigation since there are no current child protection issues. Due to high caseloads the DHW may not provide assistance to law enforcement in interviewing children in referrals of third party abuse. Additional forensic interviewing training is currently available for local police officers through a DHW contract with Police Officer Standards and Training.

The one exception is when the third party is a day care provider and/or their staff and the department is the licensing agent and there are allegations of physical or sexual abuse. If the parents are not protective of the child or children in question, then the referral should be coded according to the standards in priority one and two. Referrals regarding neglect and supervision issues in day care facilities should be referred to the Health District, Fire Department, etc. These referrals must be prioritized and responded to according to the Priority Response Standards. Parents of the child(ren) involved will be notified.

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B. Child Protection Risk Assessment

Whenever a report of child abuse or neglect is made to IDHW, the department conducts a risk assessment. It has adopted regulations dealing with the risk assessment process.

1) Immediate risk/safety assessment

An **immediate risk/safety assessment** must be completed within five (5) days of seeing the child. Based on seventeen (17) immediate risk factors, a determination must be made as to the child's safety. The child's safety will be categorized in one of three ways: **SAFE, CONDITIONALLY SAFE, or UNSAFE.**

SAFE: A child is considered to be safe when an assessment of available information leads to the conclusion that no children are likely to be at immediate risk of harm at this time.

CONDITIONALLY SAFE: A plan is being implemented to resolve the safety issues identified at the present time. The Department takes this opportunity to provide **Reasonable Efforts** (services) to the family intended to prevent removal of the child from the family. Conditional safety may also include a credible/feasible plan the family formulates and can implement to keep the child(ren) safe without removal from home. The safety plan is not expected to provide rehabilitation or to permanently change behaviors or conditions. The

IDHW Risk Assessment Regulations

IDAPA 16.06.01.553 Assigning Reports For Risk Assessment.

The Department shall assign all reports of possible abuse, abandonment and neglect of children for risk assessment unless the field office has knowledge or information that discredits the report beyond a reasonable doubt.

IDAPA 1606.01.559. Child Protection Risk Assessment.

The Department's risk assessment shall be conducted in a standardized format and shall utilize statewide risk assessment and multi-disciplinary team protocols. The assessment shall include contact with the child or children involved and the immediate family and a records check for history with respect to child protection issues.

01. Interview of a Child. The interview of a child concerning a child protection report shall be conducted:

- In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including but not limited to multiple interviews;
- By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and
- In a neutral, non-threatening environment, such as a specially equipped interview room, if available.

02. Interview of Family. Interview of the child's immediate family is mandatory in every case and may require the participation of law enforcement. The family services worker conducting the interview shall:

- Immediately notify the parents being interviewed of the purpose and nature of the assessment. At the initial contact with family, the name and work phone numbers of the case worker and his/her supervisor shall be given to ensure the family has a contact for questions and concerns that may arise following the visit;
- Determine if the family is of Indian heritage for the purposes of ICWA;
- Interview siblings who are identified at risk; and
- Not divulge the name of the person making the report during the course of the assessment.

03. Collateral Interviews. Any Assessment of an abuse or neglect report shall include at least one collateral interview with a person who is familiar with the circumstances of the child or children involved. Collateral interviews shall be conducted with discretion and preferably with the parent's permission.

04. Completion of a Comprehensive Risk Assessment. An Immediate Protection/Safety Plan will be completed on each referral assigned for assessment of abuse and/or neglect. When there are findings of moderate or higher risk and a case remains open, a comprehensive risk assessment must be completed within thirty (30) days of initial contact with the child of concern.

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safety plan controls and manages the situation until a more complete risk assessment can take place and a case plan can be developed with the family.

UNSAFE: A child is considered to be unsafe if the child is in imminent danger and thus requires removal from home to protect him/her from immediate harm.

The IDHW's "Standardized Immediate Risk Assessment instrument is included in this manual at Appendix F.

2) Overall level of risk.

In addition to making a safety decision, the immediate safety/risk assessment includes a determination of the overall level of risk. This determination represents the level of risk if Family and Children's Services were to discontinue involvement with the family. Overall levels of risk include: **(1) no risk to low risk OR (2) moderate risk or higher.**

3) Comprehensive Risk Assessment.

In situations where the overall risk is moderate risk or higher and the case remains open, a Comprehensive Risk Assessment must be completed as per IDAPA 16.06.01.559.04. The IDHW's Standardized Comprehensive Risk Assessment Instrument is included in this manual at the end of this Chapter in Appendix F.

C. Dispositioning Reports

Once IDHW completes the risk assessment, within five days, it must, according to its regulations, complete a "Dispositioning Report". In this report, the department must evaluate the report of child abuse or neglect and categorize it within one of two categories: substantiated or unsubstantiated. The criteria for each of these categories is set forth in the department's regulations.

In addition when a report is determined to be "substantiated," the department's regulations information must be entered into the Department Central Registry for the reporting of child abuse, abandonment and neglect. *See* IDAPA 10.06.01.561.

IDAPA 16.06.01.560. Dispositioning of Reports. Within five (5) days following completion of risk assessments, the Department shall determine whether the reports are substantiated or unsubstantiated. The substantiation of reports shall be determined using the following definitions, with consideration given to the age of the child, extenuating circumstances, prior history, parental attitude toward discipline, and severity of abuse or neglect:

01. Substantiated. Child abuse and neglect reports are confirmed by one or more of the following: (a) Witnessed by a worker; (b) Determined or evaluated by a court; (c) A confession; or (d) Validated through the presence of significant evidence that establishes a clear factual foundation for the determination of "substantiated."

02. Unsubstantiated. Child abuse and neglect that cannot be found to be substantiated due to: (a) insufficient evidence; or (b) facts that indicate that the report is erroneous or otherwise unfounded.

561. Substantiated Reports. For reports determined to be "substantiated", the appropriate information shall be entered into the Department's Central Registry for the reporting of child abuse, abandonment and neglect, and the alleged perpetrator so advised in writing. Notification will include how the individual can appeal to have the disposition status changed.

D. Importance of Using A Multidisciplinary Team Approach

Cases of child abuse, neglect, or abandonment are best handled by using a multidisciplinary team approach (MDT). MDT's are a statutory requirement.⁸

The purpose of using a multi disciplinary team (MDT) approach in cases involving child abuse and neglect is to increase safety for children through improved information sharing, evaluation, and decision making by those agencies who have a legal responsibility to be involved in the investigation and dispositional activities.

1) Additional advantages of the multidisciplinary approach:

- Positive outcomes in civil and criminal court including lessened likelihood of intimidating court room procedures for children;
- Reduction in contamination of evidence;
- Fewer interviews of the child and family members;
- Improved assessment with more complete and accurate data;
- Cross training of all systems in the dynamics of child abuse;
- Shared decision-making, support and responsibility;
- Reduced role confusion among disciplines;
- Effective management of difficult cases;
- Minimizes likelihood of conflicts among agencies; and
- More comprehensive identification and access to services for the family.

2) Primary role/responsibilities of the prosecuting attorney

- Provide consultation during child abuse investigations;
- Initiate of civil and criminal legal proceedings;
- Determine what specific charges to file;
- Make decisions regarding plea agreements; and
- Work closely with the victim-witness coordinator

3) Primary role/responsibilities of law enforcement

- Gather evidence to support criminal prosecution or civil child protection action;
- Investigate allegations of child abuse, abandonment or neglect;
- Enforcement of laws;

⁸ **I.C. § 16-1609A. Investigation by multidisciplinary teams.** By January 1, 1997 the prosecuting attorney in each county shall be responsible for the development of an interagency multidisciplinary team or teams for investigation of child abuse and neglect referrals within each county. The teams shall consist of, but not be limited to, law enforcement personnel, department of health and welfare child protection risk assessment staff, a representative of the prosecuting attorney's office, and any other person deemed to be necessary due to their special training in child abuse investigation. Other persons may participate in investigation of particular cases at the invitation of the team and as determined necessary, such as medical personnel, school officials, mental health workers, personnel from domestic violence programs or the guardian ad litem program.

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- Ability to remove perpetrator from the family home in child protection cases;
- Take custody of a child where a child is endangered and prompt removal from his or her surroundings is necessary to prevent serious physical or mental injury to the child;
- Interview alleged perpetrator; and
- May interview child victim.

4) **Primary role/responsibilities of Department caseworkers:**

- Make reasonable efforts to prevent the placement of a child when it is safe to do so;
- Conduct family risk assessment;
- May petition court for consideration of Endorsement Upon Summons;
- Child placement responsibility, explore kinship placements;
- Link family with resources;
- Develop service plan with family;
- May interview child victims; and
- Monitor family's progress and report to the court.

E. Making Reasonable Efforts to Prevent Placement Out of Home

When a child first comes to the attention of an agency as a potentially abused or neglected child, and it appears to the agency that the child may have to be removed for his or her safety, the agency worker should assess, before removing the child, whether there are any goods or services that would likely allow the child to remain safely at home.

In deciding whether to remove a child rather than keep the child at home with services, and in deciding what services to provide, the worker should consider each family individually and do at the least the following:

- (a) Assess the family situation to determine the likelihood of protecting the child effectively in the home. The worker should identify the specific issues, if any, that place the child at imminent risk of serious harm.
- (b) Determine whether any available services might effectively address the family's or child's specific issues.
- (c) Consider alternative ways of addressing the family's needs - short of removal - that would allow the child to be safe when the services regularly provided by the agency appear unlikely to meet the family's needs or have inappropriately long waiting lists.
- (d) Inform the family about available services that might address the family's or child's issues.
- (e) Offer the family those services that the agency considers most likely to address the issue creating the risk of the child's removal.
- (f) Give the family an opportunity to request other services not offered by the agency that the family believes might mitigate the risk of removal.

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F. Removal of a Child from His/Her Home

A child may be taken into custody by a peace officer or other person appointed by the court without an order only where the child is endangered in his surroundings and prompt removal is necessary to present serious physical or mental injury to the child. The child may only be held for a maximum of forty-eight (48) hours without a shelter care hearing.⁹

A child may also be removed from their home based on an Endorsement Upon the Summons. In this case, the Department files an Affidavit in Support of an Endorsement Upon the Summons with the prosecuting attorney identifying the issues and the efforts made to eliminate or prevent the removal of the child and why it is unsafe for the child to remain in the home. The prosecutor may then file a Petition for an Endorsement upon the Summons with the court. The court may issue an Endorsement Upon the Summons which triggers removal of the child from their home.

G. Abandonment of a Child under Idaho's Safe Haven Act

If a child is abandoned pursuant to Idaho's Safe Haven Act, IDHW does not undertake an investigation of a claim of abandonment unless a claim of parental rights is made and the court orders the investigation.¹⁰

II. Law Enforcement Perspective

A. Introduction

Law enforcement officers tend to view child abuse and neglect not as a social problem, but rather in the context of criminal law. In most States, all or most all forms of reportable child abuse or child neglect are crimes. Consequently, officers generally focus their energy on preservation and collection of evidence for criminal prosecution. Unless they have been trained in the philosophy of child protection, law enforcement officers generally see little importance in family preservation. Many officers believe a parent who abuses or neglects a child has abdicated parental responsibilities and does not deserve to care for the maltreated child. Most officers consider incarceration of the person(s) responsible for the child's condition as the desirable outcome. As officers gain experience in cases of child maltreatment, they often begin to appreciate the civil protection alternatives FACS offers, the value of casework intervention, and the need for efforts to protect children without resorting to out-of-home placement.

Child abuse and neglect cases represent a departure from more traditional law enforcement cases. Most crime reports can be accepted as generally factual. That is, if Mrs. Jones reports her house has been burglarized, the responding officers can enter the case with the presumption that a crime has occurred and set out to find the person(s) responsible. In child maltreatment cases, however, the officer must first establish that a crime has, in fact, occurred. He or she cannot assume, in the absence of other evidence, that the injury or sexual assault reported has occurred, and that the child's

⁹ See Idaho Code § 16-1612. See also Chapters III & IV of this manual.

¹⁰ Idaho Code § 39-8205(2).

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condition is the result of an individual's actions or willful inaction. In fact, 47 percent of cases of child abuse or neglect reported to child protective services across the nation do not present adequate evidence to be substantiated. (Law enforcement officers can expect to see a somewhat higher rate of substantiated cases due to the nature of the cases with which they typically get revolved.) The role of the law enforcement officer and the IDHW caseworker, as well, is *first to determine if abuse or neglect has occurred, and if so, who is responsible, then decide what actions, if any, are necessary to protect the child*. Only then can the officer really focus on collecting the evidence *necessary* for a criminal prosecution.

B. Specialized Knowledge and Skills

The crimes of child abuse and neglect also present some other unique issues. First, the victim is always a child, and some are very young. The officer's ability to communicate with children is dependent upon his/her understanding of cognitive and language development of children. The crime victims in child abuse and neglect cases are sometimes at a disadvantage in any subsequent legal proceedings because of their age and perceive immaturity. Second, many forms of abuse resemble non-abusive conditions. Inflicted traumatic injuries will be described by defense attorneys as the result of accidents. Some medical conditions may also be initially misdiagnosed as maltreatment, even by trained medical professionals. Therefore, the officer must consider all reasonable alternative explanations for the child's condition. The situation is especially sensitive when it involves child death. Complicating the investigation further is the fact that child abuse and neglect generally occurs in private places and the victims, for a number of reasons, may actively try to hide the evidence of maltreatment and deny its existence even when approached by an investigator.

Law enforcement officers assigned to child abuse investigations must possess special skills. The investigators chosen for this type of work should be able to communicate and empathize not only with the victim but also with the family and the perpetrator. In many instances, if the investigator can talk effectively with the offender, he or she can obtain a confession or other incriminating statements. Often, meticulous, detailed effort is necessary to build the case. Also, knowledge of the patterns and types of child maltreatment is a necessity for the investigator.

Investigators who work with child abuse cases must receive special training. While a good investigator can work on a child abuse case, specialized knowledge and skills eliminate much of the guesswork on the part of the investigator. Any law enforcement training provided to investigators must focus on the special needs of the victim. It is important for the investigator to realize that the victims of child abuse may suffer both psychological and physiological trauma. Immediate attention to psychological wounds assures greater possibility of successful treatment just as immediate attention to physical wounds assures greater probability of successful medical treatment. Finally, investigators must also be able to share authority with other disciplines and work in a team environment with child protective services officials if the outcome of all agencies is to be achieved.

C. Law Enforcement Roles

Law enforcement officers play many roles in the community's response to child abuse and neglect.

1) Prevention/advocacy

Because law enforcement officers are seen as a symbol of public safety, they are in an excellent position to raise community awareness about child abuse and neglect. Their perspective on the issue will carry significant weight with the media and the public at large. Because of this, many law enforcement agencies actively participate in community education efforts designed to reduce the risk of child abuse and neglect and encourage reporting. The most common prevention programs are held in school settings and target extra-familial sexual abuse. Officers conducting such programs must balance their presentations with material on abuse by relatives and caregivers if programs are to be effective for most potential victims.

2) Reporting

Because of their presence in the community, law enforcement officers often encounter situations that appear to involve child maltreatment. For example, on domestic calls or during drug arrests the officer may see evidence of harm to a child. Police are, in fact, legally mandated to report any suspected abuse and neglect in all but three States. Nationally, law enforcement makes about sixteen (16) percent of all reports of suspected maltreatment to child protective services.

3) Support to Child Protective Services

It is increasingly important for CPS and law enforcement to work together. One area of cooperation involves law enforcement support to CPS. Sometimes CPS caseworkers must visit isolated, dangerous locations and deal with mentally unstable, violent, and/or substance controlled individuals. Caseworkers generally do not have on-site communication (radio, cell phone, etc.), weapons, or special training in self-protection. Because of this and the stabilizing effect that law enforcement personnel have on many people it is often necessary for law enforcement personnel to accompany CPS caseworkers to conduct their investigations.

Law enforcement officers may accompany CPS caseworkers based on the location of investigation, the time of night, or history of the subjects involved. Failure to have proper backup has unfortunately resulted in the deaths of several CPS caseworkers and injuries to many others.

Law enforcement's authority is also much more widely accepted than the CPS authority. Many times CPS caseworkers are denied access to alleged victims of maltreatment while law enforcement's requests to see the child are honored. The officer with the power of arrest is also in an excellent position to enforce any standing orders of the court. For example, in States that allow warrantless arrests of those violating civil protection orders, the officer may be able to remove an offender from the home who has previously been placed under restrictions by the court. In some circumstances, this may avoid the need to remove a child from his/her home.

When it is necessary to remove children from their home, law enforcement officers are often called upon for assistance. Law enforcement has general authority to take custody of children. However, 46 states give specific authority to officers to take legal custody of children without a court order. Approximately 20 other states also provide the same authority to CPS caseworkers. However most

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caseworkers do not attempt forcible removal of the child without police assistance. This is good practice, because the parent is less likely to react violently if police are present.

4) Immediate response

Law enforcement is often able to react to emergency situations faster than CPS. If officials learn that a child is being seriously abused or the perpetrator is trying to flee the jurisdiction of the court with a child in state custody, a patrol unit can generally get to the scene much faster than CPS and stabilize the situation until CPS and/or law enforcement investigators can arrive. Law enforcement is also available 24 hours a day while the CPS after hour response is limited in some communities.

5) Investigative role

Law enforcement is the criminal investigative agency in the community and often must investigate the same incident, involving the same people, as CPS. In many communities this involves a parallel investigation where CPS and law enforcement must attempt to not work at cross purposes. *To avoid potential conflict and to improve investigative outcomes, a team approach with CPS and law enforcement working collaboratively is far more desirable.*

There are, however, cases of maltreatment where law enforcement personnel generally work alone or take the lead role. These include child homicides, particularly where no other children are in the home; out-of-home care abuse (in many states); commercial child pornography (these cases often involve law enforcement teams with postal inspectors and the FBI); and organized sexual exploitation of minors (again involving the FBI if state lines were crossed).

6) Victim support

In communities where no victim witness services are available, the law enforcement officer may be called upon to help prepare and support the child victim through the experience of prosecution. This may include taking the child to the courtroom prior to trial to see where everyone sits and explain what each person's role is; it may simply mean being available to a child who wants to talk about what is happening during the trial.

D. The Team Investigation

Increasingly, professionals involved in child abuse and neglect investigations recognize the need to eliminate unnecessary duplication of effort, to promote proper and expeditious collection and preservation of evidence, and to develop a coordinated system for identifying and investigating appropriate cases. This is best accomplished through a team approach, where both CPS and law enforcement work collaboratively, sharing information, assigning investigative tasks, and participating in a shared decision-making process. As a result of a team effort, the victim is less likely to be further traumatized by the investigation and a positive outcome for all investigative parties is enhanced.

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As the Tennessee Child Sexual Abuse Task Force found in 1986:

The team representatives of each discipline (law enforcement, child protective services, and in some cases prosecutors and mental health) bring their various expertise to be utilized as part of the total investigative process. By applying their expertise as part of a coordinated effort the Team members can work more efficiently and effectively. The independent goals of each discipline are still met with the only difference being that the investigative process will be coordinated through the Team. All Team members will not actually work all aspects of the investigation, but all will actively coordinate the total process drawing from the resources available through all involved disciplines and other disciplines as needed.

Law enforcement brings to the team “expertise in the collection and preservation of evidence, in crime scene examination, and in taking statements and confessions. Law enforcement can also make arrests and present the criminal case in a lawsuit through obtaining warrants, presenting the case at a preliminary hearing or grand jury and in criminal court. CPS caseworkers often have greater experience in interviewing children (victims and siblings), in assessing the risk of further abuse, in arranging for medical or psychological exams and services, and in working with the protective alternatives of juvenile or family court. Law enforcement can place children in custody, but the CPS agency generally must provide foster care services. Other members of an investigative team might include the prosecutor or agency attorney who assesses the evidence as it is collected and then formally prosecutes the case. The prosecutor can assist in drafting search warrants, preparing witnesses, and providing general direction and guidance. Mental health professionals also provide consultation to investigators on the clinical needs of the victim and others involved in the investigation, help interpret psychological information secured, and offer guidance on interviewing strategies with children and adults. To facilitate team operation, local agencies are encouraged to establish formal CPS/law enforcement protocols. As the participants in a national consensus building conference on CPS/law enforcement cooperation concluded, the protocol should include:

- ◆ statement of purpose;
- ◆ discussion of joint and respective missions and organizational responsibilities;
- ◆ types of cases covered (e.g., sexual abuse and serious or potentially serious cases of physical abuse);
- ◆ procedures for handling cases, including special investigative techniques;
- ◆ criteria for child’s removal;
- ◆ criteria for arrest of suspects;
- ◆ criteria for law enforcement referral to the CPS agency;
- ◆ criteria for CPS referral to the law enforcement agency;
- ◆ procedures to assist the CPS agency;
- ◆ criteria and/or procedures for joint investigations, including timing, determining who has prime decision-making authority, and concurrent prosecutions;
- ◆ provisions for joint training;
- ◆ provisions for multi-disciplinary consultation; and
- ◆ criteria and/or procedures for cooperation/coordination with/among agencies.

Effective collaboration is based on mutual understanding of the unique perspective of each discipline. interagency collaboration does not blend the disciplines into a homogeneous mix where the police are indistinguishable from CPS caseworkers. Rather a multidisciplinary team seeks to create a final product that retains the flavor and integrity of each ingredient. By understanding why other professionals believe and act as they do, team members are better able to accept, if not always agree with, the action of a fellow team member.

E. Problems In Working Together

The CPS caseworkers approach the job from a different perspective than most police officers. CPS caseworkers have a dual role, one part of which may appear to conflict with the other. The dual role is mandated by law in most States and is integrated throughout social work literature and training. CPS is charged with the responsibility of protecting children from further abuse and neglect. This is a difficult task involving assessing not only what has happened but also predicting if it will ever happen again. As with police, the basic investigative questions for CPS are: Did the child suffer harm or is the child likely to suffer harm? Did the parent or caretaker cause the harm? What is the likelihood of the child being harmed in the future? What steps are necessary to protect the child? It is the last question that brings into play the second role of CPS: to make all reasonable efforts to preserve the natural family. The CPS agency is obligated to attempt to keep the family together or, once separated, to work toward family reunification. It is this role that becomes a major source of conflict on many teams. Many officers see permanent removal of the child, termination of parental rights, and adoption of the child as the only route available for the child to grow up in a “normal” setting. Officers may not understand the CPS philosophy that if his/her safety can be assured, the child’s own family is the preferred place for him/her. Also, officers may not be aware of the problems and realities of foster care or the legal difficulties in terminating parental rights.

The decision-making processes of the two systems differ in many ways. Law enforcement officers are accustomed to making rapid life and death decisions in the field without supervisory consultation or approval. Many CPS agencies have procedures that involve “shared decision making” on critical issues such as the emergency removal of a child. Police find the CPS need to consult with supervisors frustrating, time consuming, and an example of bureaucracy at its worst. CPS caseworkers find that consultation reduces inappropriate actions based on the emotions of the moment.

Visitation between the child in foster care and his/her parents is another source of conflict. Laws, court decisions, and agency procedures, encourage visitation between a child and his/her parents once in foster care. Visitation is considered vital to the child’s sense of continuity and belonging even when removed from an abusive home. It is, after all, the only home the child has known and even abusive parents represent some degree of security and attachment for the child. This visitation, generally supervised in cases of sexual abuse or severe physical abuse, is usually therapeutic for the child and is essential if the child is to return home. However, law enforcement may view visitation as undermining the criminal prosecution. Police often believe that the parents are using the time to directly or subtly pressure the child to recant (and often they are right). Many police and prosecutors

would prefer to suspend visits pending the outcome of a criminal case. CPS typically disagrees and emphasizes that isolating the child from the family for an extended period can also lead to recantation of any allegations.

Recommendations for disposition of the offender after the conclusion of the investigation often emphasizes the differences in philosophies of law enforcement and CPS. In intrafamilial cases, recommendation for treatment outside of the correctional system has been a fairly common procedure for CPS staff. The vast majority of law enforcement officers are extremely skeptical about the efficacy of most treatment programs and, indeed, about the expertise of most therapists. They perceive that many of the offenders are just “going through the motions” in treatment to comply with court orders, and they see therapists, aided and abetted by CPS caseworkers, helping manipulative offenders escape the punishment they so justly deserve.

When lack of coordination or other factors lead the CPS caseworker to initiate the investigation alone or to interview any of the principals without law enforcement, the danger exists that they will unwittingly tamper with or destroy physical evidence or lead others to do so. But once familiar with the value of physical evidence collection, CPS staff can become frustrated with a law enforcement officer who does not pursue a timely search warrant where appropriate.

These conflicts must be minimized and properly dealt with if the investigative goals of all parties are to be achieved and the secondary trauma to the victim limited. These issues can be addressed on two levels, the systems level and the individual level.

1) **Systems level recommendations**

Community service delivery systems should:

Establish formal teams. Much conflict is overcome simply through familiarity and trust (although when personalities conflict the opposite may be true). This can be achieved on community levels through collaborative agreements or through State statutory changes.

Establish investigative protocols. Protocols that clearly lay out the roles and responsibilities of both police and child protection standardize practice and enhance collaboration. Protocols can be developed even where no team agreement exists. Protocols enhance investigations by limiting conflict and clarifying expectations.

Provide adequate personnel to both agencies. The sources of conflict are amplified when a disparity exists in the personnel resources available to the two agencies. When CPS staff committed to the team are disproportionate to police staff, conflict is inevitable as CPS feels compelled to proceed even though law enforcement is unavailable to participate. Disparity in resources also may affect the individual level of commitment to the team concept, with resulting conflict.

Joint training. This is one of the keys to collaboration once the team concept is realized. Training provides all parties with an opportunity to hear the same information and to learn

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skills together. It also provides an opportunity to acquaint the other discipline with the philosophical perspectives and unique concerns of others.

2) **Individual level recommendations**

Individual professionals should:

Reach out to the other discipline. This should be done in informal, non-threatening ways. It can take many forms, from suggesting that team members meet in a non-work setting to inviting other disciplines to a staffing or case consultation. It is important for team members to know that they are professionally and personally valued.

Share professional information. Even when joint training is not available, individuals can share research articles, procedure manuals, or other materials of mutual interest. Each contact helps build the sense of trust and breaks down the barriers to effective team work, particularly if the material shared relates to an area of conflict.

Keep communication open. Even when the system does not provide for a close team approach, individuals can keep their counterparts informed on the status of individual cases through notes or telephone calls.

Confront the conflicts openly. Areas of professional or personal conflict should be confronted in a non-threatening and open manner. Discussion can put the issues on the table and sort them out. Some issues can be resolved; on others, the parties may agree to disagree.

The conflicts inherent in the relationship between CPS and law enforcement are serious but do not have to present road blocks to working together effectively. Communicating and formalizing the relationship where possible can break down barriers to effective team work. Dissonance can be reduced, and conflicts can be minimized. When the team concept works, it works for all: the police, CPS, and most importantly the child and family.

III. Prosecutor's Perspective

A. **Investigators Should Seek Complete Information When Investigating CPA Cases**

Often, the perspective of the IDHW caseworker and the prosecutor or deputy attorney general who will prosecute the case are slightly different. Investigators must obtain the information necessary to support a decision to file a child protection case in a form that is admissible as evidence. This information includes:

- ◆ Children's names, sexes and ages.
- ◆ Children's address and the names of all persons who live at that address.
- ◆ Parent's names, date of birth and addresses.
- ◆ Proof of paternity may need to be established through testing or acknowledgments.
- ◆ Parent's current or prior marital status.
- ◆ Existence of a divorce or custody decree and identity of the court in which the decree is filed.

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- ◆ Whether or not the children are Indian children.
- ◆ Date, time and place the children were declared in imminent danger.
- ◆ The name of the person/officer who declared imminent danger and his/her agency (IDHW, ISP, county, or city police).
- ◆ Prior referrals or court cases.
- ◆ Facts that bring the case under the CPA. (i.e. the condition of the home, whether or not drug use is involved, the level, type and duration of abuse or neglect, etc.) Focus on the child protection concerns, not just any criminal activities. The report should explain why the children need to be protected.
- ◆ What reasonable efforts have been made to prevent removal, if any.
- ◆ Presence of aggravated circumstances.

Attempts to locate non-custodial parents and putative fathers should also be made.

At all times during the investigation, consideration should be given to what changes in circumstances or treatment for the family would benefit the child.

B. Input from Multidisciplinary Teams (MDTs)

Under law requires each county prosecuting attorney's office is required to develop an interagency multidisciplinary team for their county.¹¹ The team should include law enforcement personnel, department of health and welfare child protection staff, a representative from the prosecutor's office, guardian ad litem program and any other person necessary because of special training (such as medical personnel or mental health workers).

The MDTs develop protocols for the investigation of child abuse cases and for interviewing child victims of abuse and neglect. The MDTs may review particular cases and provide input and direction to other persons involved in a potential child protection case.

C. What Justifies Filing a Child Protection Case?

The court has jurisdiction over any child who is:

- ◆ living or found within the state, and
- ◆ **homeless, neglected, abused, or abandoned** by his parents or guardian **or whose parents fail to or are unable to provide a stable home environment**¹² **OR**
- ◆ **living or having custodial visitation in the same household** as another child who the court has jurisdiction over and the child has been exposed to or is at risk of being a victim of abuse, neglect or abandonment.

¹¹ Idaho Code § 16-1609A

¹² Idaho Code § 16-1603

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Abuse consists of conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition is not justifiably explained, or where the history given is not consistent with the degree or type of injury or the circumstances indicate that the injury may not be the product of an accident. Abuse also includes sexual molestation or exploitation. Idaho Code § 16-1602(1).

Abandonment means failing to establish and/or maintain a normal parental relationship with the child including reasonable support or regular personal contact. Failure to maintain this relationship for one year is prima facie evidence of abandonment. However, the period of time for abandonment may be substantially less than one year. For instance, abandonment might exist where a parent drops the children off at the police station and says: “Here are my kids, I can’t handle them anymore. I don’t want them. They are the state’s responsibility now.” Idaho Code § 16-1602(2). Note: The Idaho Safe Haven Act (Idaho Code §§ 39-8202 to -8207) was enacted in 2001. Under certain circumstances, this act allows parents to anonymously abandon infants under thirty (30) days old without risk of criminal charges.

Neglected means a child who is without proper parental care or control, or subsistence, education, medical or other care necessary for his well-being because of the conduct or omission of his parents or guardian. Neglect includes the situation where a parent cannot provide for his or her child due to incarceration, hospitalization or other physical or mental impairment. Idaho Code § 16-1602(21).

Homelessness is not defined in the Idaho Code, but presumably common sense applies. If a family is homeless, but they are willing to go to a place of shelter, a child protective case may not be necessary unless there are other concerns such as abuse or neglect.

Unstable Home Environment is also not defined. Common sense also should apply here. A good example of an unstable home environment might be a home in which drug deals are constantly made, people come and go at all hours, various different people are living in the home for a few days at a time, etc. Also, an unstable home environment could be a home in which the children are not abused, but they witness domestic violence between adults. The whole situation should be looked at in determining whether or not the home is “unstable.” One factor by itself may not be determinative, but the combination of everything may rise to the level that the child needs to be removed or protected.

D. Should a Child Protection Case Be Filed?

Once the prosecutor is contacted by IDHW and/or law enforcement she or he must decide whether to file a child protection case based on the information presented by the investigators. In deciding whether to file, the prosecutor should consider the following things:

- ◆ Can the case be proved in court?
- ◆ Are there witnesses to the conduct/conditions who can testify?
- ◆ Are there photographs or medical records?

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- ◆ Sometimes, even though we know that children are in a bad situation, we cannot prove it. If the situation does not improve, eventually there may be enough evidence to file on or witnesses may come forward.
- ◆ What do we seek to accomplish by filing the case? If the same goals can be accomplished by another method, such as a voluntary agreement, opt for the voluntary agreement.
- ◆ If the goals are accomplished, will the child be in a better situation?

E. When is Shelter Care Justified?

To remove a child from his or her home due to imminent danger, **the child must be endangered in his surroundings, and prompt removal is necessary to prevent serious physical or mental injury to the child.** This is very significant action, which should not be undertaken without first considering other alternatives.

Alternatives to removal of the child:

- ◆ Removal of an alleged offender from the home. *See* Idaho Code § 16-1612(b).
- ◆ Voluntary agreements by the parents. Placement with other relatives either permanently or temporarily may eliminate the need for shelter care.
- ◆ If a child is presently safe, but there is concern that he will be removed from safety by a parent, a protection order can be sought by the prosecutor. This order would bar the removal of the child pending a hearing. This is most often used where a child has been living with a stable relative, such as grandparents, but the abusive or neglectful parent is threatening to come get the child. *See* Idaho Code § 16-1606(e).
- ◆ Protective Supervision -- filing a petition without removing a child can allow IDHW to provide supervision and services to the family in the home. Consider whether the child can safely remain in the home while the DHW monitors the situation.
- ◆ Emergency Medical Treatment (Idaho Code § 16-1616). In cases where the parents/guardians of a child cannot or will not give consent for medical treatment, the court can order the necessary treatment. (This can also be used if a parent cannot be found to give consent.) This only applies if the child's health would be greatly endangered and the parent fails or refuses to consent to treatment. A CPA petition does not need to be filed to get this court order. Example: A child needs a blood transfusion or she may die. Her parents are good parents, but for religious reasons, they will not consent to a blood transfusion. The court can order the transfusion, if a doctor states that the child's health will be greatly endangered without it. Usually, this will need to be a very expedited process and would involve calling the on-call prosecutor and getting a judge available as soon as possible.